

HOUSE BILL NO. 753

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Science and Technology

Subcommittee #1)

(Patron Prior to Substitute--May)

A BILL to amend and reenact §§ 2.2-2818, 59.1-200, 59.1-443 and 59.1-444 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 59.1-443.1, relating to restricting the use of social security numbers.

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-2818, 59.1-200, 59.1-443 and 59.1-444 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 59.1-443.1 as follows:

§ 2.2-2818. Health and related insurance for state employees.

N. Beginning July 1, 2006, any plan established pursuant to this section shall provide for an identification number, which shall be assigned to the covered employee, and shall not be the same as the employee's social security number.

§ 59.1-200. Prohibited practices.

A. The following fraudulent acts or practices committed by a supplier in connection with a consumer transaction are hereby declared unlawful:

35. Using the consumer's social security number as the consumer's account number with the supplier, if the consumer has (i) requested that his control number issued by the Department of Motor Vehicles pursuant to § 46.2-342 be used or (ii) requested in writing that the supplier use an alternate number not associated with the consumer's social security number;

§ 59.1-443.1. Restricted use of social security numbers.

A. Except as otherwise specifically provided by law, a person or entity, not including an agency as that term is defined in § 2.2-3801, shall not:

1. Intentionally communicate or otherwise make available, in any manner, an individual's social security number to the general public;

2. Print an individual's social security number on any card required for the individual to access or receive products or services provided by the person or entity;

3. Require an individual to transmit his social security number over the Internet unless the connection is secure or the social security number is encrypted;

4. Require an individual to use his social security number to access an Internet website, unless a password or unique personal identification number or other authentication device is also required to access the site;

5. Require an individual to disclose or furnish his social security number to access or receive goods or services unless the request or requester is subject to a state or federal statute, regulation or rule that governs the use and disclosure of social security numbers and such request or use is not prohibited by a state or federal statute, regulation or rule;

6. Send or deliver or cause to be sent or delivered, any letter, envelope or package that displays a social security number on the face of the mailing envelope or package or from which a social security number is visible, whether on the outside or inside of the mailing envelope or package.

B. Notwithstanding subsection A, a person or entity, not including an agency as that term is defined in § 2.2-3801, that before July 1, 2004, used an individual's social security number in a manner inconsistent with subsection A may continue using that individual's social security number in that manner on and after July 1, 2004, subject to the following conditions:

1. The use of the social security number must be continuous. If the use is stopped for any reason, subsection A applies.

2. Beginning July 1, 2004, the person or entity must provide the individual with an annual written disclosure of the individual's right to stop the use of the social security number in a manner prohibited by subsection A.

3. If the individual requests in writing, the person or entity must stop using the social security number in a manner prohibited by subsection A within 30 days after receiving the request. No fee or charge is allowed for implementing the request, and the person or entity shall not deny goods or services to the individual because of the request.

C. This section does not prohibit the collection, use or release of a social security number as required by the laws of the Commonwealth or the United States or the use of a social security number for internal verification or administrative purposes unless such use is prohibited by a state or federal statute, regulation or rule.

D. In the case of a health care service plan, a provider of health care, an insurer or a pharmacy benefits manager, or a contractor, the requirements of subdivision A 2 shall become operative on January 1, 2006, and the requirements of subdivision B shall not apply.

§ 59.1-444. Damages.

Any ~~merchant who~~ person or entity that violates the provisions of this chapter shall be liable for damages in the amount of \$100, payable to the purchaser whose personal information was sold or otherwise disclosed, rented or exchanged in violation of this chapter or to the legal holder of the social security number whose number was used in violation of this chapter. In addition, such purchaser or holder may recover reasonable attorney's fees and costs. Actions under this section shall be brought in the general district court for the city or county in which the transaction ~~which~~ or other violation that gave rise to the action occurred.

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